

**COMMONWEALTH OF KENTUCKY  
CITY OF TAYLORSVILLE  
SPENCER COUNTY, KENTUCKY**

**ORDINANCE NO. 319**

**AN ORDINANCE AMENDING ORDINANCE #153, THE ETHICS CODE, TO INCLUDE APPOINTED OFFICIALS AND INDIVIDUALS APPOINTED TO CITY AGENCIES AND COMMITTEES, TO RE-DEFINE HEARING BOARD, TO ADD TWO ADDITIONAL HEARING OFFICERS AND TO ADD SUBSECTION 2 TO SECTION 4 REGARDING PROHIBITED CONDUCT.**

An ordinance establishing a Code of Ethical Conduct of the City of Taylorsville pursuant to KRS 65.003.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted KRS 65.003 requiring Cities to enact and enforce a code of ethics.

NOW THEREFORE, Be it ordained by the City of Taylorsville, Kentucky, as follows:

**SECTION 1.        Title.**

This ordinance shall be known and may be cited as the "City of Taylorsville Code of Ethics".

**SECTION 2.        Purpose and Authority.**

(A) It is the purpose of this ordinance to meet the requirements of KRS 65.003 as enacted by the 1994 Kentucky General Assembly.

(B) This ordinance is enacted under the power vested in the City by KRS 82.082 referred to as the Home Rule Statute and pursuant to requirements of KRS 65.003 referred to as the Code of Ethics Statute.

**SECTION 3.           Definitions.**

As used in this Ordinance, unless the context clearly requires a different meaning:

(A) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

(B) "Board of Ethics" means the city of Board of Ethics which is created and vested by this ordinance with the responsibility of enforcing the requirement the requirements of the city's code of ethics.

(C) "Candidate" means any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a nomination and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.

(D) "City" refers to the City of Taylorsville, Kentucky.

(E) "City agency" means any board, commission, committee, authority, non-stock corporation, or other entity created, either individually or jointly, by this City.

~~(F) "Employee" means any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides services to the city. The term "employee" shall not include any contractor or subcontractor or any of their employees.~~

(G) "Family member" means a spouse, parent, child, brother, sister, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparent, grandchild, stepchild, stepbrother or stepsister.

- (H) "Immediate family member" means a spouse, an unemancipated child or stepchild, residing in the officer's ~~or employee's~~ household, or a person claimed by the officer ~~or employee~~, or the officer's ~~or employee's~~ spouse, as a dependent for tax purposes.
- (I) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (1) The mayor.
- (2) A ~~legislative body member~~ city commissioner.
- (3) Any person who occupies a nonelected office created under KRS 83A.080.
- (4) A member of the governing body of any city agency or committee who has been appointed to the governing body of the agency or committee by the city, including but not limited to: Main Street board member, Main Street manager, Economic Development board member, Tourism, Beautification and Ethic Committee.

## STANDARDS OF CONDUCT

### SECTION 4.

#### 1. Conflicts of Interest in General.

Every officer ~~and employee~~ of the city shall comply with the following standards of conduct.

(A) No officer ~~or employee~~, or any immediate family member of any officer ~~or employee~~, shall have an interest in a business or engage in any business, transaction, or activity, which is in SUBSTANTIAL conflict with the proper discharge of the officer's ~~or employee's~~ public duties.

(B) No officer ~~or employee~~ shall intentionally use or attempt to use his or her official



position with the city to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer ~~or employee~~ shall INTENTIONALLY take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer ~~or employee~~ to take or refrain from taking any discretionary action, on any matter before the city in order to obtain a financial benefit for any of the following:

- (1) The officer ~~or employee~~.
- (2) A family member.
- (3) An outside employer.
- (4) Any business in which the officer ~~or employee~~, or any family member has a financial interest.

(D) No officer ~~or employee~~ shall be deemed in violation of any provision in this section if, by reason of the officer's ~~or employee's~~ participation, vote, decision, action or inaction, no financial benefit accrues to the officer ~~or employee~~, a family member, an outside employer, or a business as defined in this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

(E) Every officer ~~or employee~~ who has a prohibited financial interest which the officer ~~or employee~~ believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in



writing, to the governing body of the city or city agency served by the officer ~~or~~ employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer ~~of employee~~ shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

2. Prohibited Behavioral Conduct.

(A) In addition to the conditions set forth in KRS 83A.040(9) as grounds for the removal of elected officials and any other appropriate statutory provisions, the following conduct is prohibited by those covered under the Ethics Code. This listing should not be construed as all inclusive, and should be considered only as a guide to assist in avoiding activities that are in conflict with the goal of an effective city government.

1. Immoral Conduct
2. Neglect of duty
3. Absenteeism
4. Attempting bodily injury to another person
5. Dishonesty
6. Abusive or obscene language
7. Conviction of a criminal charge
8. Activities (either while representing the city or not) that discredits the city
9. Theft, willful neglect, abuse or unauthorized use of city property, equipment or vehicles
10. Performing commission responsibilities under the influence of nonprescription drugs, including alcohol; use of nonprescription drugs including alcohol at work; or being in possession of nonprescription drugs, including alcohol, while representing the city
11. Misuse of city electronic communication systems including fax machines, computers, telephones
12. Provoking or inciting a fight or fighting while representing the city
13. Mistreatment (physical or verbal) of citizens and employees
14. Deliberate falsification of records;
15. Improper discussing or disclosing confidential

information

16. Noncompliance with safety policies

17. Conviction of a felony

18. Operating outside the authority of the commission

19. Harassment:

a. Harassment is conduct that has the purpose or effect of creating an intimidating, hostile or offensive working environment, has the purpose of unreasonably interfering with an individual's work performance, or otherwise adversely affects an individual's employment opportunities.

b. Prohibited conduct includes, but is not limited to, epithets, slurs, negative stereotyping, innuendoes, jokes, disparaging remarks, verbal conduct consisting of crude or vulgar language, inquiries and disclosures, and offensive verbal comments and commentary, or threatening, intimidating, or hostile acts, written or graphic material that denigrates or shows hostility or aversion that is on the employer's premises or circulated in the workplace.

20. Sexual harassment:

i. Acts of sexual harassment include, but are not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature when (1) submission to such is made, either explicitly or implicitly, a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

b. A special responsibility falls upon the Commissioners who are responsible for their actions and the actions of their officers. In addition to the policy guidance above for all commissioners, all commissioners should refrain from touching or intruding in the personal space of another (generally defined in our culture as two to three feet), sexual innuendoes or jokes, disparaging remarks, verbal conduct consisting of crude or vulgar language of a sexual nature, and inquiries or disclosures of sexual habits or proclivities, sexist remarks, repeated offensive sexual flirtations, advances, propositions, and



repeated verbal commentaries and sexually suggestive conduct. All Commissioners shall assume that all such behavior listed in this paragraph is unwelcome at any, every, each, and all times unless express explicit verbal or written permission is granted for such behavior on each separate occasion. The fact that such permission has been granted once does not mean that such behavior may ever be permitted again.

21. Discrimination (any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practices of differentiation or preference in the treatment of a person or person, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful by the federal or state statutes.)
22. Retaliation (Disciplining, changing work assignments, providing inaccurate work information, or refusing to cooperate or discuss work-related matters with any officer because that officer has complained about or resisted discrimination or harassment (including sexual harassment) is prohibited.)

(B) Aside from the infractions above, the City Commission must avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:

1. using city position for private gain;
2. offering preferential treatment to any person;
3. impeding city efficiency or economy;
4. losing complete independence or impartially;
5. making a city decision outside of official channels;
6. affecting adversely the confidence of the public in the integrity of the city;
7. comply with all applicable laws, ordinances, orders, and regulations, and resolutions in carrying out of our responsibilities;

## **SECTION 5.        Conflicts of Interest in Contracts.**

(A) No officer ~~or employee~~ of the city shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city agency, except as follows:

- (1) The prohibition in subsection (A) of this section shall not apply to contracts



entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, ~~or before an employee was hired by the city~~. However, if any contract is entered into by a city or city agency officer ~~or employee~~ before he or she became a candidate, was appointed to office, ~~or was hired as an employee~~, is renewable after he or she becomes a candidate or assumes the appointed office, ~~or is hired as an employee~~, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer ~~or employee~~ is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer ~~or employee~~ has any of the authorities set forth in the preceding sentence, then the officer ~~or employee~~ shall have no interest in the contract, unless the requirements set forth in subpart (3) below are satisfied.

(3) The prohibition in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the contract transaction and the nature of the officer's ~~or employee's~~ interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.

(b) The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(c) A finding is made by the governing body of the city or city agency that the contract with the officer ~~or employee~~ is in the best interest of the public and the city or city agency because of price, limited supply, or other specific reasons.

(d) The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(B) Any violation of this section may constitute a Class A misdemeanor under statute and upon corrections may be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city and may constitute a violation under Chapter 61 of the Kentucky Revised Statutes and for violating any contract entered by said individual.

#### **SECTION 6.      Receipt of Gifts.**

No officer ~~or employee~~ of the city shall directly, or indirectly through any other person or business, solicit or accept any gift having a fair market value of more than one hundred (\$100.00), whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer ~~or employee~~ in the performance of his or her public duties.

#### **SECTION 7.      Use of City Property, Equipment, and Personnel.**

(A) No officer ~~or employee~~ of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

(1) The use is specifically authorized by a stated city policy or approved by the



commissioners.

- (2) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

**SECTION 8.**        Representation of Interests Before City Government.

(A) No officer ~~or employee~~ of the City shall represent any person or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city.

~~(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.~~

(C) Nothing in this section shall prohibit any officer from representing himself or herself in matters concerning his or her own interests.

(D) No officer ~~or employee~~ shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

**SECTION 9.**        Misuse of Confidential Information.

No officer ~~or employee~~ of the city shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.



**SECTION 10.**        Post-Employment Restriction.

No officer ~~or employee~~ of the city shall appear or practice before the city with respect to any matter on which the officer ~~or employee~~ personally worked while in the service of the city for a period of one (1) year after the termination of the officer's ~~or employee's~~ service with the city.

**SECTION 11.**        Honoraria.

(A) No officer ~~or employee~~ of the city shall accept any compensation, honorarium or gift with a fair market value greater than \$500.00 in consideration of an appearance, speech or article unless the appearance, speech or article is both related to the officer's ~~or employee's~~ activities outside municipal service and is unrelated to the officer's ~~or employee's~~ service with the city.

(B) Nothing in this section shall prohibit an officer ~~or employee~~ of the city from receiving and retaining from the city or on behalf of the city actual and reasonable out-of-pocket expenses incurred by the officer ~~or employee~~ in connection with an appearance, speech or article, provided that the officer ~~or employee~~ can show that the expenses were incurred or received on behalf of the city and primarily for the benefit of the city and not primarily for the benefit of the officer ~~or employee~~ or any other person.

**FINANCIAL DISCLOSURE**

**SECTION 12.**        Who Must File.

The following shall file an annual statement of financial interests with the Board of Ethics:

(A) Elected city officials.

(B) Candidates for elected city office.

**SECTION 13.**      When to File Statements; Amended Statements.

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 4 p.m., December 31, 1995. All subsequent statements of financial interest shall be filed no later than 4 p.m. on December 31<sup>st</sup> each year, provided that:

- c. An officer newly-appointed to fill an office with the city shall file his or her initial statement no later than sixty (60) days after the date of the appointment.
- d. A candidate for city office other than an elected officer who has made the filing shall file his or her initial statement no later than thirty (30) days after the date on which the person file candidates papers for elected city office.

(B) The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interest for good cause shown.

(C) In the event there is a material change in any information contained in a financial statement that has been filed with Board, the officer, no later than thirty (30) days after becoming aware of the material change, file an amended statement with the Board.

**SECTION 14.**      Contents of the Financial Interest Statement.

(A) The statement of financial interest shall include the following information for the preceding calendar year:

- (1) The name, current business address, business telephone number, and home address of the filer.
- (2) The title of the filer's office and office sought.
- (3) The occupation of the filer and the filer's spouse.
- (4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding ten thousand dollars (\$10,000.00) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution, etc.).
- (5) The name and address of any business located within the city in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of at least ten thousand dollars (\$10,000.00) at fair market value or five percent (5%) ownership interest or more.
- (6) The name and address of any business located outside of the state, if the business transactions with the city during the past three (3) years, or which is anticipated to engage in any business transactions with the city, in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of ten thousand dollars (\$10,000.00) at fair market value of five percent (5%) ownership interest or more.
- (7) A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of ten thousand dollars (\$10,000.00) or



more.

- (8) Each source by name and address of gifts or honoraria having an aggregate fair market value of five hundred dollars (\$500.00) or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.

- (B) Nothing in this section shall be construed to require any officer ~~or employee~~ to disclose any specific dollar amounts nor the names of individual clients or customers of businesses listed as sources of income.

**SECTION 15.      Noncompliance With Filing Requirement.**

- (A) The designated administrative official shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.
- (B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under subsection (A) within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed fifty dollars (\$50.00) per day, up to a maximum total civil fine of five thousand dollars (\$5,000.00). Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty

within a prescribed period of time.

- (C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information may be guilty of a Class A misdemeanor.

## NEPOTISM

### SECTION 16. Nepotism.

- (A) No officer ~~or employee~~ of the city shall advocate, recommend or cause the:

- a. Employment;
- b. Appointment;
- c. Promotion;
- d. Transfer; or
- e. Advancement

of a family member of said officer ~~or employee~~ to an office or position of employment with the city.

- (B) No officer ~~or employee~~ of the city shall supervise or manage the work of a family member.

- (C) No officer ~~or employee~~ shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent an official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

- (D) The prohibitions in this section shall not apply to situation which existed prior to the Effective Date of this Ordinance.

## **ENFORCEMENT**

### **SECTION 17.      Board of Ethics Created.**

- (A) There is hereby created a Board of Ethics which shall have authorities, duties, and responsibilities as set forth in this ordinance to enforce the provisions of this ordinance.
- (B) The Board of Ethics shall consist of an administrative officer, who shall be appointed by the City legislative body within 90 days of the effective date of this ordinance and who shall serve at its pleasure of said legislative body, and a hearing board, which shall consist of the administrative officer and two additional hearing officers who shall be appointed by the City legislative body and who shall serve at the pleasure of the legislative body.
- (C) The administrative officer shall be responsible for the enforcement of this code and maintenance of the financial disclosure statement.
- (D) The hearing officers, shall hear and decide all matters in which invoke a hearing as set forth herein after and in SECTION 21. Hearing Procedures.

### **SECTION 18.      Power and Duties as to the Administrative Officer of the Board of Ethics.**

The administrative officer shall have the following powers and duties:

- (A) To receive and investigate complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.



- (B) To issue orders in connection with its investigations and hearings requiring persons to submit in writing and under oath reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Board who has the power to administer oaths.
- (C) To administer oaths and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing conducted by the Board.
- (D) To refer any information concerning violations of this ordinance to the executive authority of the city, the city legislative body, the governing body of any city agency, the county attorney, or other appropriate person or body, as necessary.
- (E) To render advisory opinions to city agency officers ~~and employees~~ regarding whether a given set of facts and circumstances would constitute a violation of any provision of this ordinance.
- (F) To enforce the provisions of this ordinance with regard to all officers ~~and employees~~ of the city and city agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.
- (G) To control and maintain all statements of financial interests that are required to be filed by this ordinance and to insure that the statements are available for public inspection in accordance with the requirements of this ordinance and the Kentucky Open Records Act.
- (H) To develop and submit any reports regarding the conduct of its business that

may be required by the executive authority or legislative body of the city.

- (I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, and actions are not in conflict with the provisions of this ordinance or any state or federal law.

**SECTION 19.**      Filing and Investigation of Complaints.

- (A) All complaints alleging any violation of the provisions of this ordinance shall be submitted to the administrative officer. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the administrative official. The administrative officer shall acknowledge receipt of a complaint to the complainant within thirty (30) working days from the date of receipt and shall forward within thirty (30) working days to each officer or employee of the city who is the subject of the complaint a copy of the complaint and a general statement of the application provisions of this ordinance.
- (B) Within thirty (30) days of the receipt of a proper complaint, the administrative officer shall conduct a preliminary inquiry concerning the allegations contained in the complaint and shall afford a person who is the subject of the complaint an opportunity to respond who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in responses to the allegations.
- (C) All proceedings and records relating to a preliminary inquiry being conducted by the administrative officer shall be confidential until a final determination is made, except.



- (1) The administrative officer may turn over to the Commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.
  - (2) If the complaint or alleged violator publicly disclose the existence of a preliminary inquiry, the administrative official may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.
- (D) The administrative officer shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this ordinance. If the administrative officer concludes that the complaint is outside of its jurisdiction, frivolous or without factual basis, the administrative officer shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers ~~or employees~~ against whom the complaint was filed.
- (E) If the administrative officer concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the administrative officer shall notify the officer ~~or employee~~ who is the subject of the complaint and may:
- (1) Due to mitigating circumstances such as, lack of significant economic advantage or gain by the officer ~~or employee~~, lack of economic loss to the city and its taxpayers, or lack of significant impact on public confidence in city government issue, in writing, a confidential reprimand to the officer ~~or employee~~ concerning the alleged violation and provide a copy of the confidential reprimand to the executive authority and governing body of the

city or city agency.

(2) Initiate a hearing to determine whether there has been a violation.

(F) Any person who knowingly files with the administrative officer a false complaint alleging a violation of any provision of this ordinance by an officer ~~or employee~~ of the city or any city agency shall be guilty of a Class A misdemeanor.

**SECTION 20.**      Notice of Hearings.

If the administrative officer determines that a hearing regarding allegations contained in the complaint is necessary, the administrative officer shall issue an order setting the matter for a hearing within thirty (30) days of the date of the order is issued, unless the alleged violator petitions for the administrative official consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the administrative relating to the hearing shall be sent to the alleged violator within twenty-four (24) hours of the time the order setting a hearing is issued.

**SECTION 21.**      Hearing Procedure.

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board of Ethics; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the administrative officer so as to afford all parties the full range of due process rights required by the nature of the proceedings.

(B) Prior to the commencement of the hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the administrative officer in connection with the matter to be heard. The administrative officer shall inform the alleged violator, or his



- or her representative, of any exculpatory evidence in its possession.
- (C) All testimony in an administrative officer hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.
- (D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the administrative officer, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the mention for incorporation into the record of the proceeding.
- (E) All hearings ~~of the administrative officer~~ shall be public, unless the administrative officer determining an executive session be held in accordance with KRS 61.810.
- (F) After the conclusion of the hearing, the ~~administrative officer~~ Hearing Board shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this ordinance has been proven. Within forty five (45) days after completion of the hearing, the ~~administrative officer~~ Board, shall issue a written report of its findings and conclusions.
- (G) If the ~~administrative officer~~ Board concludes in its report that no violation of this ordinance has occurred, it shall immediately send written notice of this determination to the officer ~~or employee~~ who was the subject of the complaint and to the party who filed the complaint.

(H) If the ~~administrative officer~~ Board concludes the report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this ordinance, the ~~administrative officer~~ Board may:

- (1) Issue an order requiring the violator to cease and desist the violation.
- (2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body with which the violator serves.
- (3) In writing, recommend to the city commissioner that the violator be sanctioned recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.
- (4) Issue an order requiring the violator to pay a civil penalty of twenty five (\$25.00) per day, but not more than five thousand (\$5,000.00) for not complying with the filing requirement and may impose an additional penalty of not more than one thousand (\$1,000.00) for other violations.
- (5) Refer evidence of criminal violations of this ordinance or state laws to the county attorney or commonwealth's attorney of the jurisdiction for prosecution.

## **SECTION 22.      Appeals.**

Any person who is found guilty of a violation of any provision of this ordinance by the ~~administrative officer~~ Board may appeal the finding to the circuit court of the county within thirty (30) days after the date of the final action by the ~~administrative officer~~ Board by filing a petition with the court against the administrative officer Board. The ~~administrative officer~~ Board shall transmit to the clerk of the court all evidence considered by the ~~administrative officer~~ Board



at the public hearing.

**SECTION 23.**      Limitation of Actions.

Except when the period of limitation is otherwise established by state law, an action for a violation of this ordinance must be brought within one (1) year after the violation is discovered.

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**SECTION 24.**      Advisory Opinion.

- (A) The administrative officer may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer ~~or employee~~ of the city or a city agency who is covered by this ordinance.
- (B) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.
- (C) The administrative office may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be modified so that the identity of any person associated with the opinion shall not be revealed.
- (D) The confidentiality of an advisory opinion may be waived either:
  - (1) In writing by the person who requested the opinion.
- (E) A written advisory opinion issued by the administrative officer shall be binding any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the administrative officer had existed at the time the opinion was rendered. However, if

any fact determined by the administrative officer to be material was omitted or misstated in the request for an opinion the administrative officer shall not be bound by the opinion.

(F) A written advisory opinion issued by the administrative officer shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this ordinance for actions taken in reliance on that opinion.

**SECTION 25.      Reprisals Against Persons Disclosing Violations Prohibited.**

(A) No officer ~~or employee~~ of the city shall be subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interference with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the administrative officer or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer ~~or employee~~ of the city or any city agency discloses information which he or she knows:

(a) To be false or which he or she discloses with reckless disregard for its truth or falsity.

(b) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884 to 61.884.

(C) Is confidential under any other provision of law.



**SECTION 26.        Penalties.**

- (A) Except when another penalty is specifically set forth in this ordinance, any officer ~~or employee~~ of the city who is found by the administrative officer to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the administrative officer of twenty five dollars (\$25.00) per day up to five thousand dollars (\$5,000.00) regarding failure to comply with the filing requirement and up to one thousand dollars (\$1,000.00), for other violations which may be recovered by the city in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.
- (B) In addition to all other penalties which may be imposed under this ordinance, any officer ~~or employee~~ of the city who is found by the administrative office to have violated any provision of this ordinance shall forfeit to the city an amount equal to the economic benefit or gain which the officer ~~or employee~~ is determined by the administrative officer to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.
- (C) In addition to all other penalties which may be imposed under this ordinance, a finding by the administrative officer that an officer ~~or employee~~ of the city is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer ~~or employee~~ for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations of the city and all

applicable laws of the Commonwealth.

(D) In addition, to all other penalties, which may be imposed, any person who knowingly files a fraudulent financial statement or a false complaint, shall be guilty for a Class A misdemeanor.

**SECTION 27.      Severability.**

If any provision of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provision of this ordinance shall continue in full force and effect.

**SECTION 28.      Conflicting Ordinances Repealed.**

All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

**SECTION 29.      Effective Date.**

This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

Enacted this the 4th day of November, 2010, by the City of Taylorsville.

CITY OF TAYLORSVILLE, KENTUCKY



DON PAY, Mayor

ATTESTED BY:



STEPHEN A. BIVEN, City Clerk



Date of First Reading	<u>10-5-2010</u>
Date of Second Reading	<u>11-4-2010</u>
Date Published	<u>12-1-2010</u>